

**REVISED**

**PZBA14-00046                      801 Cervantes Court                      Cervantes Revocable Trust**  
**Applicant requests Special Exceptions under Section 2.16.050 C (Rear Yard Setback) and**  
**Special Exception J (Carport over a Driveway) in an R-1 (Residential) zone.**

This would allow an existing addition which encroaches 403.8 square feet (approximately 52.6' by 8') into the required rear yard setback and is located to within 22.1 feet of the rear property line. This would also allow an existing vehicle patio (carport) of approximately 877 sq. ft. and which is located to within 58 feet of the front property line.

The required front and rear yard setback cumulative total is 100 feet in the R-1 zone district.

**BACKGROUND**

The house was built in 1983-84. It was remodeled extensively in 2001, with an accessory dwelling unit added. This request is to legalize the portions of the main house which encroach into the required rear yard and front yard setbacks. Further, if this request is approved, the setbacks are established for any future additions to the property, with the front yard setback of 70' located at the Cervantes Court street frontage and the required 25' side street yard setback along Rosinante Road. The west portion of the property, varying from 70' to 90' wide, is located in the state of New Mexico.

The carport over the driveway is not shown in the site plan submitted for the 2001 building permit. A permit was not found for the carport. The carport does not exist in the 2002 aerial and exists in the 2003 aerial photo. The applicant is required to submit plans, including structural and elevation drawings, for plan review.

The applicant's architect submitted structural and elevation drawings and an engineer's report which assesses the carport's structure.

An accessory structure is located in the required 25' side street yard setback along Rosinante Road and encroaches more than the 5 feet of accessory structure allowed to encroach into a side street yard setback. The applicant has agreed to relocate or remove the structure.

**CALCULATIONS**

Permitted area of encroachment in required rear yard setback = 1,900.62 sq. ft. (105.59' [316.78' average lot width ÷ 3] x 18' [3/5 of 30'])

Requested area of encroachment in rear yard setback = 403.80 sq. ft. (52.6' x ~8')

Permitted front carport area = 1,293.80 sq. ft. (house area of 6,469 sq. ft. ÷ 5)

Requested front carport area = 876.60 sq. ft. (26.5' wide x 28' deep = 742 sq. ft. + area between columns and house, 23.5' x 5.6' = 131.6 sq. ft.)

Required front and rear yard cumulative setback total = 100'

Requested front and rear yard cumulative setback total = 80.1' (rear setback is 22.1'; front is 58.0')

**STAFF RECOMMENDATION**

Staff recommends approval of the requests as they meet the requirements of the Special Exceptions C and J, with Conditions: 1) that the accessory structure located in the side street yard setback is either removed or relocated; 2) that the front yard setback is established along the Cervantes Court street frontage; and, 3) that the 25 feet side street yard setback is established along Rosinante Road.

The Zoning Board of Adjustment is empowered under Section 2.16.050 C to:

"Permit an extension of a single-family residential structure into the required rear yard setback, which shall be measured to the rear property line; provided, however, that:

1. The residence has been in existence with a valid certificate of occupancy for one continuous year;
2. The maximum square footage allowed shall not exceed the result of multiplying one-third of the average width of the lot by three-fifths of the required rear yard setback;
3. A minimum ten foot rear yard setback shall be required;
4. The minimum side and side street yard setbacks shall not be reduced; and,
5. Unless otherwise provided in this section, all remaining areas of the required rear yard shall be permanent open space.”

The Zoning Board of Adjustment is empowered under Section 2.16.050 J to:

“Permit the encroachment into the required front yard setback for a lot in a residential (R) district beyond other allowed modifications for a carport covering a driveway; provided, however, that:

1. The residence has been in existence with a valid certificate of occupancy for one continuous year;
2. The zoning board of adjustment has received the written approval of the structural design from the building official;
3. The carport shall be constructed of the same material, architectural design, and color scheme as the residential structure, shall be open on three sides, shall be attached to the main structure and shall rise no higher than the highest point of the roof of the dwelling;
4. The area of the carport shall not exceed one-fifth of the first-floor area under roof of the dwelling, with the first-floor area of the dwelling defined as the sum of the gross horizontal area, exclusive of garages, atriums, stairwells, and open porches, measured from the exterior faces of the exterior walls; and, shall be measured as the area covered by the carport roof, to include overhangs;
5. Elevation drawings of the proposed structure shall be submitted;
6. For a duplex, the total of all extensions for either unit of the duplex shall not exceed two-thirds of the average width of that unit;
7. There is no other reasonable alternative to provide a carport in the front yard of the subject property without exceeding the encroachments allowed in Title 20 of this code; and,
8. Unless otherwise provided in this chapter, all remaining areas of the required front yard shall be permanent open space.”